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Amended: 06/28/90; Amended: 05/03/91; Amended: 08/13/93;  
Amended: 12/07/95; Amended: \_\_\_\_\_)

## RULE 1309

### Emission Reduction Credits

~~This rule addresses the application, eligibility, registration, use, and transfer of Emission Reduction Credits (ERCs). These credits shall be used as offsets for emission increases at new or modified facilities that are subject to Rule 1303(b)(2). [Moved to Proposed Rule 1309(A)(1)(a).]~~

~~(a) Validation of Existing, Qualifying Net Emission Decreases~~

#### (A) General

~~(1) Existing NSR Balances~~

~~Facilities which according to District records have a net emission decrease since October 8, 1976, shall receive ERCs after the net emission decrease has been discounted by 80 percent and verified by the Executive Officer or designee. Upon validation, an ERC shall be registered in the Register of Titles as a current ERC. [Provision removed. All "old" NSR balances and ERCs have been either banked or reduced to zero prior to creation of AVAPCD. See Current Rule 1301(c).]~~

(1) Purpose

(a) The purpose of this Rule is to implement those provisions of Division 26, Part 3, Chapter 6 (commencing with §40700) of the California Health & Safety Code which require the establishment of a system by which all reductions in the emission of air contaminants (which are to be used to offset certain future increases in emissions) shall be banked prior to use to offset future increases in emissions. [Health & Safety Code §§40709, 40709.5, 40709.6, 40709.7, 40710, 40711, 40712, and 40713.]

- (b) This Rule is not intended to recognize any preexisting right to emit air contaminants, but to provide a mechanism for the District to recognize the existence of reductions of air contaminants that can be used as Offsets, and to provide greater certainty that such Offsets shall be available for emitting industries. *[Health & Safety Code §40709(b).]*

~~(2) Existing ERCs~~

~~Any ERC based on an application which was deemed complete prior to September 28, 1990, resulting from the additional control of air contaminants through process changes or the installation of air pollution control equipment, unless included as an AQMP measure at the time, shall not be discounted. All other ERCs shall be discounted by 80 percent and reissued. *[Provision removed. All "old" NSR balances and ERCs have been either banked or reduced to zero prior to creation of AVAPCD. See 1301(c).]*~~

(2) Applicability

- (a) This Rule shall apply to the creation, banking and use of all Emission Reduction Credits (ERCs) within the District. *[Health & Safety Code §40709(a).]*
- (b) Any Person, including the District, may Bank, own, use, sell or otherwise transfer, either in whole or in part, ERCs which are created and owned pursuant to this regulation subject to the applicable requirements of Federal, State, or District law, rule, order, permit or regulation. *[Health & Safety Code §40710 Sentence 2.]*

(3) Prohibitions

- (a) No reduction in the emission of air contaminants may be used to offset future increases in the emission of air contaminants, except as provided in subsection (1)(a)(i) below, unless such reductions have been Banked pursuant to this Rule. *[Health & Safety Code §40709(a) Sentence 1.]*
  - (i) Notwithstanding the above, emissions reductions proposed to offset simultaneous emissions increases within the same Facility are not required to be Banked prior to use as Offsets so long as such reductions satisfy all the applicable criteria contained in District Rules 1304 and 1305.

~~(b) Application for an ERC for a New Emission Reduction~~

~~In order to obtain an ERC, an application made in the form and along with supporting~~

~~data and documents required by the Executive Officer or designee shall be submitted for each existing source that is to be modified or permanently taken out of service. The application shall be submitted no more than 90 days after the emission reduction occurs.~~  
*[Moved to Proposed Rule 1309(C)(1).]*

## **(B) Emission Reduction Credit Registry**

~~(1) The Executive Officer or designee shall not deem an ERC application complete nor process such application unless and until the ERC applicant supplies supporting data and documents to the District, including but not limited to:~~  
*[Moved to Proposed Rule 1309(C)(1).]*

### **(1) Establishment of Emission Reduction Credit Registry:**

~~(A) the amount and type of emissions;~~ *[Moved to Proposed Rule 1309(C)(1)(b)(ii).]*

**(a) An Emission Reduction Credit Registry is hereby established for the District.**

**(i) This shall be known as the Antelope Valley District Emission Reduction Credit Registry (AVAPCD ERC Registry).**

~~(B) the date on which the emission reduction took place or is planned to take place;~~ *[Moved to Proposed Rule 1309(C)(1)(b)(ii).]*

**(b) The AVAPCD ERC Registry shall consist of the following:**

- (i) ERCs created and issued after July 1, 1997 which have met all the following requirements:**
  - a. A timely and complete application for ERCs has been received pursuant to subsection (C)(1) below; and**
  - b. The amount of ERCs have been calculated and approved by the APCO pursuant to subsection (C)(3) below and District Rule 1304; and**
  - c. The amount, ownership and expiration date if any of the ERCs has been entered into the Registry; and**
  - d. A Certificate evidencing the amount, type and class of ERCs has been properly issued; and**
  - e. The ERCs have not yet been used as Offsets or expired.**

- (ii) ERCs banked prior to July 1, 1997 under the applicable Rules of the South Coast Air Quality Management District and which meet the following requirements:
    - a. The ERCs have been properly transferred to the AVAPCD ERC Registry pursuant to subsection (E)(4) below; and
    - b. The ERCs have not yet been used as Offsets or expired.
- ~~(C) the Regulation XIII zone from which the ERC is to originate; [Provision removed. Territory now within the jurisdiction of the AVAPCD was formerly located within the same zone under prior regulation.]~~
- (c) ERCs contained in the AVAPCD ERC Registry are permanent until:
  - (i) They are used by the owner; or
  - (ii) They are used by any person to whom the ERC has been transferred; or
  - (iii) They expire. *[Mobile, Area and Indirect Source ERCs have expiration dates.]*
- ~~(D) the reason for the emission reduction, such as a process change, addition of control equipment, or equipment or facility shutdown; and [Moved to Proposed Rule 1309(C)(1)(b)(iii).]~~
- (d) Subsequent changes in District Rules or Regulations to require a type of emission reduction which has previously been banked shall not reduce or eliminate an ERC generated from that type of emission reduction.
- ~~(E) surrender of applicable District operating permits whenever emission reductions are the result of either equipment or facility shutdown. [Moved to Proposed Rule 1309(D)(3).]~~
- (e) Emission reductions are eligible to become ERCs if such reductions are AERs as defined in District Rule 1301(B) and are calculated pursuant to the provisions of District Rule 1304(D) and:
  - (i) The emissions reduction is the result of a Modification or limitation of use of existing equipment such that after the reduction is made the equipment remains in service with an authority to construct or permit to operate pursuant to Regulation II - *Permits* or Regulation XXX - *Federal Operating Permits*; or
  - (ii) The emission reduction is the result of a shutdown of emission unit(s) and there will likely be no replacement emission unit(s) at the same Facility unless the emissions from any replacement

emission unit(s) must be completely offset under the provisions of District Rule 1305. *[See CARB Comments #16 and 17 of 3/1/00.]*

~~(2) The Executive Officer or designee shall notify the ERC applicant in writing within 30 calendar days of the receipt of the ERC application whether the application contains sufficient information to be deemed complete. Upon receipt of any additional information, a new 30-day period will begin, during which time the Executive Officer or designee shall determine and notify the applicant whether the application is complete. An application which continues to be deemed incomplete 180 days after the date of the first submittal shall be cancelled by the Executive Officer or designee. A determination of incompleteness may be appealed to the District Hearing Board. *[Moved to Proposed Rule 1309(C)(2)(c) and (G).]*~~

(2) Contents of Registry:

- (a) All ERCs contained in the AVAPCD ERC Registry shall be individually listed.
- (b) The registry entry for each ERC shall contain the following information:
  - (i) The name, address, and telephone number of the owner(s) of the ERC;
  - (ii) The amount and pollutant type of approved ERC;
  - (iii) The expiration date of the approved ERC, if any; *[Mobile, Area and Indirect Source ERCs have expiration dates.]*
  - (iv) Any information regarding liens, encumbrances and other changes of record. *[Information required for tracking pursuant to Health & Safety Code §40709.5(a).]*
- (c) The registry shall contain an entry for each ERC until such ERC is used, expires or is otherwise altered by operation of law. *[Health & Safety Code §40710 Sentence 1.]*

~~(3) Preliminary Decision~~

~~No later than 180 days after the application for an ERC is deemed complete, a preliminary written decision shall be given that all, part, or none of the emission reductions can be registered as an ERC.~~

(3) ERC Certificate: *[Health & Safety Code §40710.]*

- (a) All ERCs issued pursuant to this regulation shall be evidenced by a

Certificate issued by the District and signed by the APCO. *[Health & Safety Code §40710.]*

- (b) The Certificate shall contain the same information as is contained in the registry entry for the issued ERC. *[Health & Safety Code §§40710, 40711(b) Sentence 1.]*
- (c) The APCO shall prescribe the form of the Certificate. *[Health & Safety Code §40710.]*
- (d) ERC Certificates shall not constitute instruments, securities or any other form of property. *[Health & Safety Code §40710, Sentence 3.]*

~~(4) Emission Reduction Eligibility Requirements~~

~~All Emission Reduction Credits shall be calculated pursuant to Rule 1306 and be subject to the approval of the Executive Officer or designee. The Executive Officer or designee shall consider reductions of air contaminants resulting from removal of equipment from service, and the additional control of mobile and stationary sources. The applicant must demonstrate to the Executive Officer or designee that all stationary and mobile source reductions are:~~

(4) Ownership of ERCs:

~~(A) real;~~

- (a) Initial title to approved ERCs shall be held by the owner(s) of the emissions unit(s) which produced the reduction in emission of air contaminants, in the same manner as such owner(s) hold title to the facility in which the emissions unit is located. *[Health & Safety Code §§40710, 40712.]*

~~(B) quantifiable;~~

- (b) Title for any approved ERC which has been transferred, in whole or in part, by written conveyance or operation of law from one person to another shall be held by the owner(s) in the manner indicated in the written conveyance or as indicated by the operation of law. *[Health & Safety Code §40711(b) Sentence 1.]*

~~(C) permanent;~~

- (c) The owner(s) of an ERC as listed in the registry and on the ERC

Certificate shall have the exclusive right to use such ERCs and/or to authorize such use. *[Health & Safety Code §40710 Sentence 2.]*

~~(D) — federally enforceable, and~~

~~(E) — not greater than the equipment would have achieved if operating with current Best Available Control Technology (BACT).~~

~~Reductions in emissions due to changes in the hours of operation shall not qualify for an ERC.~~

~~The BACT adjustment shall not apply to facilities located in the SEDAB.~~

~~(5) — Evaluation~~

~~In evaluating the applications for ERC submitted pursuant to this regulation, the Executive Officer or designee shall consider emission reductions only if before a complete application is submitted, the same emission reductions from the same equipment type as those proposed by the applicant are not:~~

~~(A) — required by a Control Measure in the AQMP which has been assigned a target implementation date; or~~

~~(B) — required by a proposed District rule for which the first public workshop to consider such a rule has been conducted. This exclusion shall remain in effect for 12 months from the date of such workshop, or until the Executive Officer or designee determines that the proposed rule is abandoned or the provisions of subparagraph (5)(C) become effective; or~~

~~(C) — required by an adopted federal, State, or District rule, regulation, or statute; or~~

~~(D) — from a category or class of equipment included in a demonstration program required by a District rule or regulation.~~

~~(c) — Registration of ERCs~~

~~Upon the Executive Officer's or designee's final determination to grant an ERC, the title to the ERC shall be registered in the Register of Title. All information concerning the title, interests, pertinent dates and other matters shall be registered, until the Certificate of Title is canceled or nullified by operation of law.~~

## **(C) Issuance of Emission Reduction Credits**

**(1) Applications for ERCs:**

**(a) ERCs shall be applied for, in writing, by the owner or operator of the**

emissions unit from which the emission reduction has occurred or will occur, to the APCO. *[Moved and modified from 1309(b).]*

- (b) Applications for ERCs shall be clearly identified as such and shall contain the following:
  - (i) The name, address, and telephone number of the owner(s) of the emissions unit and a contact person if necessary.
  - (ii) Information sufficient to identify the source and/or causation of the emission reductions. *[Moved and modified from 1309(b)(1)(A-B) and (D).]*
  - (iii) Information sufficient to allow the calculations set forth in District Rule 1304(D) to be performed. *[Moved and modified from 1309(b)(1)(D).]*
- (c) No application for ERCs will be accepted until the applicable fees as specified in District Rule 301 have been paid.
- (d) Applications for ERCs shall be submitted in a timely manner determined as follows:
  - (i) For emission reductions which occurred after July 1, 1997, an application for ERCs shall be submitted within six (6) months after any of the following: *[Moved and modified from 1309(b) ¶1.]*
    - a. District issuance of an Authority to Construct pursuant to District Regulation II - *Permits*; or *[Moved and modified from 1309(b) ¶1.]*
    - b. District issuance of an Authority to Construct pursuant to Regulation XIII - *New Source Review*; or *[Moved and modified from 1309(b) ¶1.]*
    - c. District issuance of a modified permit pursuant to Regulation II - *Permits*; or *[Moved and modified from 1309(b) ¶1.]*
    - d. District cancellation of a permit pursuant to Regulation II - *Permits*; or
    - e. for emissions units not subject to permitting requirements, the completion of the Modification or shutdown and execution of the document required by subsection (D)(3)(c). *[Moved and modified from 1309(b) ¶1. See CARB Comment #18 of 3/1/00.]*
  - (ii) Notwithstanding subsections (C)(1)(d)(i) above, a timely application for a Military Base subject to closure or realignment



shall be determined pursuant to the provisions of Health & Safety Code §40709.7.

- (e) Applications for ERCs may be withdrawn at any time by the applicant.
  - (i) An applicant who withdraws an application may be entitled to a partial refund of fees as set forth in District Rule 301.
  - (ii) A withdrawn application for ERCs does not preclude an applicant from later submitting an application for ERCs based upon the same emissions reductions as those contained in the withdrawn application as long as such resubmitted application is timely in accordance with subsection (C)(1)(d) above.
- (f) The confidentiality of trade secrets contained in an application for ERCs shall be considered in accordance with Government Code §6254.7.  
*[Government Code §6254.7. Moved and modified from 1310(c)(3) Sentence 2.]*

(2) Determination of Completeness:

- (a) The APCO shall determine if the application is complete no later than thirty (30) days after the receipt of the application, or after such longer time as both the applicant and the APCO may agree upon in writing.  
*[Moved and modified from 1309(b)(2) Sentence 1.]*
  - (i) An application is complete when it contains the information required by subsection (C)(1)(d) above. *[Moved and modified from 1309(b)(1).]*
- (b) Upon making this determination, the APCO shall notify the applicant, in writing, that the application has been determined to be complete or incomplete. *[Moved and modified from 1309(b)(2).]*
  - (i) If the application is determined to be incomplete: *[Moved and modified from 1309(b)(2).]*
    - a. The notification shall specify which part of the application is incomplete and how it can be made complete; and *[Moved and modified from 1309(b)(2).]*
    - b. The applicant for ERC shall have thirty (30) days to submit the additional information, unless another time period is specified by the APCO in writing. *[Moved and modified from 1309(b)(2).]*

- c. The applicant for an ERC may request in writing, and the APCO may grant for good cause shown, extension(s) of time for submission of the additional information. Such request and any extension(s) granted shall be in writing. *[Moved and modified from 1309(b)(2).]*
  - d. If the applicant does not submit the additional information in writing within the time period specified or extended in writing by the APCO the application shall be deemed withdrawn by the applicant. *[Moved and modified from 1309(b)(2) Sentence 3. See CARB Comment #19 of 3/1/00 and CARB Comment #4 of 4/11/00.]*
  - e. The APCO shall thereafter notify the applicant in writing that the application has been deemed withdrawn pursuant to this subsection. *[See CARB Comment #19 of 3/1/00 and CARB Comment #4 of 4/11/00.]*
- (c) A determination of incompleteness which results in an application being deemed withdrawn may be appealed to the Hearing Board pursuant to section (G) below. *[Moved and modified from 1309(b)(2) Sentence 4.]*
- (3) Calculation of ERCs:
  - (a) Calculation of ERCs shall be performed pursuant to the provisions of District Rule 1304(D).
- (4) Proposed ERCs:
  - (a) Within thirty (30) days after the application for ERCs has been determined to be complete, or after such longer time as both the applicant and the APCO may agree upon in writing, the APCO shall determine, in compliance with the standards set forth in section (D) below, to issue or deny the ERCs. *[Moved and modified from 1310(C)(1) and (C)(3) Sentence 1.]*
    - (i) The APCO shall notify the applicant in writing of the determination.
      - a. If the determination is to issue ERCs then the notice shall include the amount and type of the ERCs proposed to be issued; or
      - b. If the determination is to deny the ERCs then the notice shall include an explanation of the reason for the denial.

- (ii) The information submitted by the applicant and the APCO's analysis shall be transmitted to the California Air Resources Board and the USEPA regional office no later than the date of publication of the notice of the preliminary determination if the amount of ERCs proposed to be granted are greater than any of the following amounts: *[40 CFR 51.161(d).]*

<u>Pollutant</u>	<u>ERC Notification to CARB/USEPA Threshold</u>
NO <sub>x</sub>	14,600 lbs/yr <b>or</b> 40 lbs/day
SO <sub>x</sub>	21,900 lbs/yr <b>or</b> 60 lbs/day
ROC	10,950 lbs/yr <b>or</b> 30 lbs/day
PM <sub>10</sub>	10,950 lbs/yr <b>or</b> 30 lbs/day
CO	80,300 lbs/yr <b>or</b> 220 lbs/day
H <sub>2</sub> S	20,000 lbs/yr <b>or</b> 54 lbs/day
Pb	1,200 lbs/yr <b>or</b> 3 lbs/day

*[Moved and modified from 1310(c). Note: Thresholds are lesser than mandatory USEPA notification. All ERC issuance are noticed to the general public (Proposed Rule 1309(C)(5)(b)) but CARB and USEPA notice and approval are not mandatory unless the emissions reductions are from mobile, area or indirect sources. If CARB and USEPA would like notice for lesser amounts of offsets they can be included on the list with the office of the Clerk of the Board. See Proposed Rule 1304(C)(2)(d), 1304(D)(2)(d) and 1305(B)(3). See CARB Comment #20 of 3/1/00 and CARB Comment #5 of 4/11/00.]*

**(5) Public Notice and Comment:** *[Moved and modified from 1310(c).]*

- (a) After the APCO has determined to issue ERCs, the APCO shall publish a notice in at least one daily newspaper of general circulation within the District and shall send a copy of the notice to all persons who are included on a list of persons requesting notice, on file with the Clerk of the Board for the District. *[40 CFR 51.161(b)(3). Moved and modified from 1310(c)(2) and (c)(3) Sentence 1.]*

- (b) The notice shall provide the following:
- (i) The name and address of the applicant and the facility generating the emissions reductions, if different; *[40 CFR 51.161(a).]*
  - (ii) The amount and type of ERCs proposed to be issued; *[40 CFR 51.161(a).]*
  - (iii) The name, address and telephone number of a person from whom additional information may be obtained; and *[40 CFR 51.161(b)(1). Moved and modified from 1301(c)(2).]*
  - (iv) At least a thirty (30) day period in which interested persons may submit written comments to the District regarding the proposed issuance of the ERCs. *[40 CFR 51.161(b)(2). Moved and modified from 1310(c)(2) and (c)(3) Sentence 1.]*
- (c) The APCO shall accept all germane and nonfrivolous comments which are received during the comment period. The APCO shall consider such comments prior to issuance of the ERCs.
- (d) The APCO shall include all accepted comments with the records regarding the issuance of the ERCs and shall retain such records for a period of at least five (5) years.
- (6) Issuance of ERCs:
- (a) Upon the expiration of the public comment period; after review of comments accepted, if any; and upon payment of the appropriate fee, if any, the APCO shall issue the ERCs by including the appropriate information in the registry and issuing a Certificate. *[Health & Safety Code §40711(a) Sentence 3.]*
  - (b) The APCO shall provide written notice of the final action to the applicant (and to USEPA and CARB, if the preliminary determination was sent to such agencies pursuant to subsection (C)(4)(a)(ii) above).

~~(d) — Use of ERCs~~

~~ERCs may be used by the owner to offset emission increases due to new or modified sources of air pollution and to the extent allowed by federal law. An ERC shall qualify as an offset upon surrender of the Certificate to the District. Such ERC shall be used in a manner consistent with the Certificate record and in accordance with all other requirements of this regulation at the time of use, including the applicable offset ratio, determined pursuant to Rule 1303.~~

## (D) Standards for Granting Emission Reduction Credits

- (1) ERCs shall be real, enforceable, permanent, quantifiable and surplus. *[40 CFR 51.165(a)(3)(ii)(C)(1).]*
- (2) ERCs shall only be granted for emissions reductions which are not otherwise required by Federal, State or District law, rule, order, permit or requirement. *[40 CFR 51.165(a)(3)(ii)(A); Health & Safety Code 40709(a) Sentence 2.]*
- (3) ERCs shall only be granted if the applicable changes to permits have occurred or other enforceable documents have been submitted as indicated below: *[40 CFR 51.165(a)(3)(ii). Moved and modified from 1309(b)(1)(E).]*
  - (a) If the emission reduction is the result of a Modification or limitation of use of existing equipment:
    - (i) A revised permit to operate containing federally enforceable conditions reflecting the Modification and/or limitations has been issued. *[Moved and modified from 1309(b)(1)(E).]*
  - (b) If the emission reduction is the result of a shutdown of permit unit(s):
    - (i) The relevant permits have been surrendered and voided. *[Moved and modified from 1309(b)(1)(E).]*
    - (ii) The emissions unit(s) for which the permits were surrendered will not be repermited within the District, unless their emissions are completely offset pursuant to Regulation XIII - *New Source Review*.
  - (c) If the emission reduction is the result of a shutdown of a emission unit(s) which did not have a District permit: *[Health & Safety Code §40714.5(b).]*
    - (i) A valid District permit has been obtained or a contract enforceable by the District has been executed by the applicant which contains enforceable limitations reflecting the reduced emissions. *[Health & Safety Code §40714.5(b)(2)(D). Note: This provisions provides enforceability.]*
  - (d) If the emission reduction is the result of the application of a more efficient control technology to a previously unpermitted emission unit(s):

- (i) A valid District permit has been obtained which contains enforceable limitations reflecting the reduced emissions.
- (4) If the emission reduction originates from a previously unpermitted emission unit, no ERCs may be granted unless the historical emissions from that unit are included in the District's emissions inventory. *[Health & Safety Code 40714.5(b)(2)(C). Note: This provision avoids "double counting".]*
- ~~(e) — Transfer of ERCs by Registered Owner~~

~~Transfer of the whole or any portion of an interest in a registered ERC is allowed, provided it is in writing, accompanied by the sale price of such ERCs, in dollars per pound, signed by the transferor, and acknowledged in any form authorized by law. Upon filing such instrument with the District, the transfer shall be complete and the title so transferred shall vest in the transferee. A new Certificate, certifying the title to the estate or interest in the ERC, shall be issued and the last previous original Certificate shall be cancelled. Such cancellation shall be recorded in the Register.~~
- (E) Transfer, Encumbrance, and Readjustment of Emission Reduction Credits
  - (1) ERCs may be transferred in whole or in part by written conveyance or by operation of law from one person to another in accordance with the provisions contained in this section. *[Health & Safety Code §40711(b) Sentence 1 and (d).]*
  - (2) Voluntary Transfer of Ownership. *[Health & Safety Code §40711(b) Sentence 2.]*
    - (a) A voluntary transfer of ownership in whole or in part shall be performed according to the following procedure: *[Health & Safety Code §40711(b) Sentence 2.]*
      - (i) The owner(s) of the ERC may file a request for transfer of ownership with the APCO. Such request shall include: *[Health & Safety Code §40711(b) Sentence 2.]*
        - a. Information regarding the new owner of the ERC sufficient for entry in the registry. *[Health & Safety Code §40711(b) Sentence 2.]*
        - b. An executed copy of the instrument transferring the ERC or a memorandum describing the transaction which transfers the ERC which is signed by all parties to the transaction. *[Health & Safety Code §40711(b) Sentence 2.]*
        - c. The purchase price, if any, of the ERCs in terms of total cost by pollutant purchased. *[Required for mandatory reports pursuant to Health & Safety Code §40709.5(e).]*

- d. The existing ERC Certificate(s) for the ERCs to be transferred. *[Health & Safety Code §40711(b) Sentence 2.]*
  - (ii) Upon payment of the appropriate fee as set forth in District Rule 301, the APCO shall cancel the existing ERC Certificate(s) and issue new certificate(s) in the name of the new owner and indicate the transfer in the Registry. *[Health & Safety Code §40711(a) Sentence 3.]*
- (3) **Involuntary Transfer of Ownership** *[Health & Safety Code 40711(b) Sentence 3.]*
  - (a) An involuntary transfer of ERCs shall be performed pursuant to the following procedure: *[Health & Safety Code 40711(b) Sentence 3.]*
    - (i) The transferee shall file with the District a certified copy of the document effecting the transfer. The transferee shall certify that the document represents a transfer which is final for all purposes. *[Health & Safety Code 40711(b) Sentence 3.]*
    - (ii) Upon payment of the appropriate fee as set forth in District Rule 301, the APCO shall demand the original ERC Certificate from the original owner. *[Health & Safety Code 40711(b) Sentence 3.]*
      - a. Upon the surrender of the existing ERC Certificate to the District or after 90 days (whichever comes first), the existing ERC Certificate shall be considered cancelled, and the APCO shall issue a new ERC Certificate and indicate the involuntary nature of the transfer in the registry. *[Health & Safety Code 40711(b) Sentence 3.]*
    - (iii) The APCO shall thereafter not allow the use or subsequent transfer of the ERC by the original owner. *[Health & Safety Code 40711(b) Sentence 3.]*
- (4) **Transfer of ERCs Banked Prior to July 1, 1997.**
  - (a) ERCs which were created within the area which is now under the jurisdiction of the District and which were properly banked prior to July 1, 1997 pursuant to the applicable rules of the South Coast Air Quality Management District may be transferred to the AVAPCD ERC Registry according to the following procedure:
    - (i) The owner of the ERCs shall submit a request to include the ERCs in the AVAPCD ERC Registry by:
      - a. Requesting such inclusion in writing; and

- b. Surrendering the ERC certificate or other evidence of the ERCs obtained from the South Coast Air Quality Management District.
  - (ii) Upon receipt of the request and documentation the APCO shall:
    - a. Notify the South Coast Air Quality Management District in writing of the request, the intent to include such ERCs in the AVAPCD ERC Registry, and request that the South Coast Air Quality Management District remove such ERCs from its bank.
    - b. The APCO shall, at the request of the South Coast Air Quality Management District, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
    - c. Within ninety (90) days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the South Coast Air Quality Management District that such ERCs have been removed from its bank, whichever occurs earlier, the APCO shall issue a new certificate(s) in the name of the owner and include the ERCs in the Registry.
- (b) ERCs which were created which were properly banked prior to July 1, 1997 pursuant to the applicable rules of the South Coast Air Quality Management District and which are owned by an owner/operator located within the jurisdiction of the District may be transferred to the AVAPCD ERC Registry according to the following procedure:
  - (i) The owner of the ERCs shall submit a request to include the ERCs in the AVAPCD ERC Registry by:
    - a. Requesting such inclusion in writing; and
    - b. Surrendering the ERC certificate or other evidence of the ERCs obtained from the South Coast Air Quality Management District.
    - c. Paying the applicable fee contained in District Rule 301 ( )
  - (ii) Upon receipt of the request and documentation the APCO shall:
    - a. Notify the South Coast Air Quality Management District in writing of the request, the intent to include such ERCs in the AVAPCD ERC Registry, and request that the South Coast Air Quality Management District remove such ERCs from its bank.



- b. The APCO shall, at the request of the South Coast Air Quality Management District, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
  - c. Within ninety (90) days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the South Coast Air Quality Management District that such ERCs have been removed from its bank, whichever occurs earlier, the APCO shall issue a new certificate(s) in the name of the owner and include the ERCs in the Registry.
  - d. ERCs transferred pursuant to this subsection shall meet all requirements of Health and Safety Code 40709.6 either at the time of the transfer or upon use. *[See CARB Comment #22 of 3/1/00.]*
- (c) ERCs once transferred to the AVAPCD ERC Registry may not thereafter be utilized within the South Coast Air Quality Management District
- (4) Other Encumbrances of ERCs
  - (a) Other encumbrances may be placed upon ERCs according to the following procedure:
    - (i) The holder of the encumbrance shall file with the District a certified copy of the final document creating the encumbrance.
    - (ii) Upon payment of the appropriate transfer fee as set forth in District Rule 301 ( ), the APCO shall indicate the encumbrance in the Registry.
  - (b) Thereafter the APCO shall not allow the use or subsequent transfer of the ERC by the owner without receipt of a certified copy of the satisfaction of the encumbrance or by the removal of the incumbrance by its holder of the encumbrance.
- (5) Readjustments of ERCs
  - (a) Readjustment of ERCs due to the readjustment of AERs due to changes in the District's AQAP or SIP shall be processed as follows:
    - (i) The owner of the ERC shall file an application to adjust the AER.

- (ii) The APCO shall determine if the adjustment of the AER is warranted and the amount of such adjustment pursuant to the provisions of District Rule 1304(D)(4).
  - (iii) After the APCO has determined the amount of the adjustment, upon surrender of the prior ERC Certificate, the APCO shall issue an adjusted ERC Certificate to the owner.
- (6) Any transfer of an ERC shall not modify or otherwise alter the requirements contained in a permit or contract which render the ERC real, enforceable, permanent and quantifiable. *[Health & Safety Code §40711(b) Sentence 2.]*
- (7) Notwithstanding any other provision of law, conflicting interests in ERCs shall rank in priority according to the time of filing with the District. *[Health & Safety Code §40711(b) Sentence 4.]*

~~(f) Mobile Source Credit~~

~~Emission Reduction Credits shall be granted for emission reductions from the control of mobile sources pursuant to Regulation XVI rules.~~

**(F) Utilization of ERCs**

~~(1) ERCs may be issued based on emission reductions which comply with all requirements of any Regulation XVI rule.~~

(1) Unexpired ERCs may be used as offsets in accordance with the provisions of Rule 1305.

~~(2) Limitations~~

~~(A) The Executive Officer or designee will approve plans for scrapping vehicles pursuant to Rule 1610, for no more than 30,000 vehicles per year.~~

~~(B) Any permit to construct or operate a new or modified permit unit based upon ERCs obtained through the provisions of a Regulation XVI rule shall expire within the period for which the ERCs are issued, unless further emission offsets equal to or greater than such ERCs are obtained, or the subject permit unit's potential to emit is reduced to the extent that the ERCs granted pursuant to this paragraph would no longer be necessary.~~

~~(C) Pursuant to Rule 504, no variance or series of variances, including emergency granting of a variance, from a permit condition implementing a Regulation XIII offset requirement shall be granted if such permit condition is based upon the use of MSERCs.~~

~~(g) Interpollutant Offsets~~

~~The Executive Officer or designee may approve interpollutant offsets on a case-by-case basis, provided that the trade results in an equivalent or greater offset of the new, modified, or relocated source's nonattainment pollutants; and that the applicant demonstrates, to the satisfaction of the Executive Officer or designee, that the emissions from the new or modified source will not cause or significantly contribute to the violation of an ambient air quality standard as specified in Table A-2.~~

~~Interpollutant trades between PM<sub>10</sub> and PM<sub>10</sub> precursors may be allowed. PM<sub>10</sub> emissions shall not be allowed to offset NO<sub>x</sub> or ROG emissions in ozone nonattainment areas. All interpollutant trading shall be subject to EPA's review and approval.~~

**(G) Appeal of the Incompleteness, Granting or Denial of Emission Reduction Credits** *[Health & Safety Code §40713.]*

(1) If an application for ERCs is deemed withdrawn pursuant to subsection (C)(2)(b)(i)d. the applicant may, within thirty (30) days of the date the application is deemed withdrawn, petition the District Hearing Board for a hearing on whether the application as submitted was incomplete. *[Health & Safety Code §40713. Moved and modified from 1309(b)(2) Sentence 4.]*

(2) An applicant for ERCs may, within thirty (30) days after receipt of the notice of denial of ERCs, petition the District Hearing Board for a hearing on whether the application for ERCs was properly denied. *[Health & Safety Code §40713 Sentence 2.]*

(3) The procedural provisions applicable to such a hearing shall be the same as those used for hearings regarding the denial of a permit application pursuant to Health & Safety Code §42302. *[Health & Safety Code §40713 Sentence 1.]*

~~(h) Inter-Basin and Inter-District Offsets~~

~~(1) Offsets between different stationary sources located in different air control districts shall be allowed so long as the air districts are in the same air basin.~~

~~(2) Offsets between different stationary sources located in different air basins shall be allowed only when:~~

- ~~(A) — The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district pursuant to Chapter 10 of the Health and Safety Code commencing with Section 40910; and~~
- ~~(B) — The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district, as determined by the state board pursuant to Health and Safety Code Section 39610.~~
- ~~(3) — Any offset transaction credited pursuant to paragraphs (h)(1) and (h)(2) above shall be approved by resolution adopted by the Governing Board of the upwind district and the Governing Board of the downwind district. The adopting resolution shall consider the impact of the offset on air quality, public health, and the regional economy.~~

[SIP: Submitted as amended \_\_\_\_\_ on \_\_\_\_\_; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(c)(240)(i)(A)(1)]